

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID L. COLLINS,

Plaintiff,

vs.

PEOPLE OF THE STATE OF NEVADA,

Defendant.

2:10-cv-01458-PMP-LRL

ORDER

On August 30, 2010, the court received a handwritten document from plaintiff entitled “Motion for Restoration of Liberty” (docket #1-1). Such document is insufficient to initiate a civil rights action in this court. The Local Rules require plaintiffs appearing in *pro se*, such as this plaintiff, to file all of their complaints and petitions on the court’s approved forms. LSR 2-1 (“[a] civil rights complaint filed by a person who is not represented by counsel shall be on the form provided by this court.”). Accordingly, the Clerk shall not file this document.

The court also notes that, in its preliminary review, plaintiff appears to attempt to challenge his underlying conviction. However, when a prisoner challenges the legality or duration of his custody, or raises a constitutional challenge which could entitle him to an earlier release, his sole federal remedy is a writ of *habeas corpus*. *Preiser v. Rodriguez*, 411 U.S. 475 (1973); *Young v. Kenny*,

1 907 F.2d 874 (9th Cir. 1990), *cert. denied* 11 S.Ct. 1090 (1991). Moreover, when seeking damages for
2 an allegedly unconstitutional conviction or imprisonment, “a § 1983 plaintiff must prove that the
3 conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid
4 by a state tribunal authorized to make such determination, or called into question by a federal court’s
5 issuance of a writ of habeas corpus, 28 U.S.C. § 2254.” *Heck v. Humphrey*, 512 U.S. 477, 487-88
6 (1994). “A claim for damages bearing that relationship to a conviction or sentence that has not been so
7 invalidated is not cognizable under § 1983.” *Id.* at 488.

8 **IT IS THEREFORE ORDERED** that the Clerk **SHALL SEND** to plaintiff the
9 approved forms for filing a civil rights lawsuits under 42 U.S.C. §1983. Within **thirty (30)** days from
10 the date of entry of this order, plaintiff **SHALL FILE** a completed and signed complaint. Plaintiff’s
11 failure to do so may result in the immediate dismissal of the entire action.

12 **IT IS FURTHER ORDERED** that the Clerk shall send to plaintiff a blank petition for
13 writ of *habeas corpus* form with instructions.

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15 DATED this 25th day of October, 2010.

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18 UNITED STATES MAGISTRATE JUDGE
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